

Honorable Salvador Mendoza, Jr.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE

ALEX MCVICKER and MARK
MOSS, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

GIGA WATT, INC.; *et al.*,

Defendants,

RAYMOND BALESTRA, individually
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

GIGA WATT, INC., ET AL.

Defendants.

No. 2:18-CV-00100-SMJ

No. 2:18-CV-00103-SMJ

JOINT REPORT ON STATUS OF
BANKRUPTCY PROCEEDINGS

1 On December 14, 2018, proceedings in the above-captioned matter were
 2 stayed based upon the filing by Defendant Giga Watt, Inc. of a Chapter 11
 3 bankruptcy petition in the matter *In re Giga Watt, Inc.*, U.S. Bankruptcy Court for
 4 the Eastern District of Washington, Case No. 18-03197-FPC. (Dkt 35).

5 On March 4, 2022, the Parties were directed to file a status report advising
 6 the Court as to the status of the pending bankruptcy proceedings. (Dkt 39).
 7 The Parties' joint report is provided below.

8 The Giga Watt, Inc. bankruptcy has a long and complicated history and is
 9 still ongoing. The bankruptcy has spawned four adversary proceedings, two of
 10 which have been resolved.¹ There have also been two appeals, one of which has
 11 resolved after going to the Ninth Circuit Bankruptcy Panel. *In re Giga Watt, Inc.*,
 12 No. 2:18-BK-03197, 2021 WL 321890, at *1 (B.A.P. 9th Cir. Jan. 29, 2021)
 13 (affirming denial of reconsideration of order granting trustee's motion for sale of
 14 certain assets to a third party free and clear).

15 Currently, the last docket entry in the primary bankruptcy matter
 16 (bankruptcy docket 939) was entered 12/12/21, and it is an Order granting an
 17 application to appear pro hac vice. There are ongoing proceedings in the primary
 18 bankruptcy, two ongoing adversary proceedings, and an ongoing appeal.
 19 To the Parties' knowledge, the Court has not ruled on whether or not a discharge
 20 will be granted. There have been limited orders granting relief from the
 21 automatic bankruptcy stay, but no general lifting of the bankruptcy stay, which
 22 remains in force at this time.

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 25 ¹ *Waldron v. Carlson and Jane Doe I et al*, Case No. 19-80012-FPC. (closed); *Dam v. Waldron et al*,
 Case No. 20-80020-FPC (closed); *Waldron v. Perkins Coie LLP et al*, Case No. 20-80031-FPC; *Waldron v. Dam*,
 Case No. 21-80053-FPC.

1 There are currently eight opinions on Westlaw related to this case, mostly
2 from the bankruptcy court. They are provided below in chronological order.

3 • *Balestra v. Giga Watt, Inc.*, No. 2:18-CV-00103-SMJ, 2018 WL
4 8244006, at *3 (E.D. Wash. June 28, 2018) (Order Granting Motion for
5 Appointment as Lead Plaintiff and Approval of Selection of Counsel).

6 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2020 WL 6157104
7 (Bankr. E.D. Wash. Oct. 20, 2020), *aff'd sub nom. Dam v. Waldron*, No. 2:20-
8 CV-00391-SAB, 2021 WL 6137346 (E.D. Wash. July 30, 2021) (Findings and
9 Conclusions for Order Authorizing Trustee's Sale of Moses Lake Equipment).

10 • *In re Giga Watt, Inc.*, No. 2:18-BK-03197, 2021 WL 321890 (B.A.P.
11 9th Cir. Jan. 29, 2021) (affirming denial of reconsideration as to order granting
12 trustee's motion for the sale of certain assets to a third party free and clear).

13 • *Dam v. Waldron*, No. 2:20-CV-00391-SAB, 2021 WL 6137346
14 (E.D. Wash. July 30, 2021) (Order on Appeal Affirming Approval of the Sale of
15 Moses Lake Equipment and Related Relief, and Approving Bid Procedures).

16 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 1584527
17 (Bankr. E.D. Wash. Apr. 22, 2021) (Order Holding Adversary Proceeding is Not
18 a Core proceeding).

19 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 1597870
20 (Bankr. E.D. Wash. Apr. 22, 2021) (Order denying Motion to Compel Arbitration
21 and Stay).

22 • *In re Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 15877238
23 (Bankr. E.D. Wash. Apr. 22, 2021) (Order Granting Trustee's Motion to Strike
24 Jury Demand).

1 • *In re: Giga Watt, Inc.*, No. 18-03197-FPC7, 2021 WL 4436941
 2 (Bankr. E.D. Wash. Sept. 27, 2021) (finding violation of automatic stay, denying
 3 sanctions, and identifying claims plaintiff could proceed on in bankruptcy).

4 Some substantive events and orders in the bankruptcy court, followed by
 5 the bankruptcy court's docket numbers, are provided as follows:

6 11/19/18 Voluntary Petition for Chapter 11 bankruptcy filed. (1)
 7 11/22/18 Amended Voluntary Petition for Chapter 11 bankruptcy filed. (11).
 8 12/12/18 Statement of financial affairs filed. (42).
 9 12/19/18 APPOINTMENT of Unsecured Creditors' Committee. (56).
 10 12/26/18 ORDER Denying Debtor in Possession's Motion for Interim and
 11 Final Orders Authorizing Debtor to Incur Post-Petition Debt (74).
 12 01/18/19 ORDER Granting Motion to Appoint Chapter 11 Trustee. (121).
 13 01/23/19 APPOINTMENT of Trustee.
 14 01/23/19 AMENDED STATEMENT of Financial Affairs filed. (142).
 15 01/24/19 ORDER APPROVING Appointment of Chapter 11 Trustee. (146)
 16 01/28/19 Deadline for filing claims
 17 03/04/19 ORDER Granting Motion to Extend Deadline to File Proofs of Claim
 18 to April 19, 2019, and Approving Procedure Relating to Notice to
 19 Token Holders and Miner Owners. (219).
 20 04/16/19 ORDER Granting Stipulated Motion Between the Chapter 11 Trustee
 21 and the Port of Douglas County Regarding the Lease, the Application
 22 of the Surety Deposit to the Claims of the Port of Douglas County,
 23 and the Modification of the Automatic Stay. (276).
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1 04/22/19 Adversary case filed, *Waldron v. Carlson and Jane Doe 1 et al*, Case
2 No. 19-80012 commenced. (281). COMPLAINT for Recovery of
3 money/property - 548 fraudulent transfer.
4 05/10/19 ORDER Granting Chapter 11 Trustee's Motion for Order Approving
5 Agreement With Moses Lake Landlords. (300).
6 05/20/19 Deadline for filing claims (govt.)
7 05/20/19 ORDER Granting Motion to Approve Moses Lake Three-Way
8 Agreement. (309).
9 05/28/19 ORDER Granting Motion to Approve Compromise With Executive
10 Flight, Inc. (318).
11 08/329/19 ORDER Granting Request for (1) Expedited Hearing on Authority to
12 Re-Open the TNT Facility and to Borrow on Interim Basis;
13 (2) Authorizing Re-Opening of TNT Facility; and (3) Approving
14 Financing on Interim Basis With Super-Priority Unsecured Status and
15 Order Setting Final Hearing on Request to Borrow. (365).
16 10/01/19 ORDER Granting Financing on Final Basis With Super-Priority
17 Unsecured Status. (380).
18 11/14/19 ORDER Granting Motion to Modify the Automatic Stay regarding
19 stipulated motion with Port of Douglas County. (417).
20 12/12/19 DISCLOSURE Statement. Filed by Benjamin A Ellison on behalf of
21 Unsecured Creditors' Committee. (431).
22 03/10/20 ORDER Granting Motion to Approve Compromise and Settlement
23 Pursuant to FRBP 9019. (508).
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1 03/24/20 ORDER Granting Relief from Stay, Abandonment of Property, and
2 Denying Waiver of FRBP 4001(a)(3) re Creditor Chelan Douglas
3 Regional Port Authority, formerly the Port of Douglas County. (515).
4 04/02/20 ORDER Denying Motion to Compel Trustee to Abandon and Motion
5 for Allowance of Administrative Expenses. (526).
6 04/09/20 ORDER Granting Motion To Sell Property Free and Clear of Liens:
7 Electrical Equipment. (540).
8 05/06/20 ORDER Granting Motion To Sell Property Under § 363(b). (589).
9 05/19/20 ORDER Approving: (1) Sale of TNT Facility and Trailer Equipment
10 Free and Clear of Liens, Claims and Interests, Subject to
11 Overbidding, Approving Notice Thereof; and (2) Assumption and
12 Assignment of Leases and Power Contract. (602).
13 06/05/20 Adversary case, *Dam v. Waldron et al*, Case No. 20-80020. (627).
14 06/11/20 ORDER Approving Settlement With Port. (619).
15 06/25/20 APPEAL to Bankruptcy Appellate Panel regarding Order on Motion
16 to Sell Property Free and Clear. (629).
17 07/02/20 ADVERSARY Proceeding 2:19-ap-80012 Closed.
18 07/03/20 STATUS Report for Interim Investigatory Report. (631).
19 07/06/20 ORDER Granting Motion for 2004 Examination. (637).
20 09/14/20 ORDER Granting in part, Denying in part Motion for 2004
21 Examination. (715).
22 09/24/20 ORDER Granting Motion To Sell Property Free and Clear of Liens:
23 Condominium in Quincy, WA. (732).
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1 09/24/20 ORDER Granting Motion to Approve Compromise and Settlement
2 Pursuant to FRBP 9019 With Allrise. (733).
3 09/30/20 ORDER Granting Motion to Convert Case from 11 to 7. (744).
4 10/20/20 FINDINGS of Fact and Conclusions of Law in Support of Order
5 Authorizing Trustee's Sale of Moses Lake Equipment. (764).
6 10/20/20 ORDER Approving the Sale of Moses Lake Equipment and Related
7 Relief, and Approving Bid Procedures. (765).
8 10/23/20 APPEAL Transmittal to District Court regarding Order on Motion to
9 Sell Property Free and Clear. (774).
10 10/23/20 REPORT of Sale. 776).
11 10/29/20 FINAL Account Ch 11 with Attached: Ledger Report, Operating
12 Statement, and Bank Transaction Report. (787).
13 11/16/20 REPORT of Sale. (802).
14 12/02/20 ORDER Allowing Chapter 11 Administrative Claim of Giga Plex,
15 LLC and MLDC1, LLC. (829).
16 12/22/20 ORDER Converting Application for Administrative Expenses and
17 Declaratory Relief to an Adversary Proceeding. (846).
18 01/18/21 Deadline for objecting to discharge
19 03/19/21 ORDER Granting Motion to Approve Compromise and Settlement
20 with RI Landlord. (877).
21 08/26/21 ADVERSARY Proceeding 2:20-ap-80020 Closed.
22 10/07/21 Notice of Appeal regarding Memorandum Decision 877. (923).
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1 The Parties believe that this report advises the Court as to the status of the
2 pending bankruptcy proceedings. However, the Parties will supplement this
3 report if directed by the Court.

4 SUBMITTED JOINTLY this 14th day of March, 2022.

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6 BERSKIN JOHNSON & TOWNSEND PLLC

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8 By: s/ Roger Townsend (via consent)

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